

Amendment No. 11 to HB2035

**Fitzhugh
Signature of Sponsor**

FILED
Date _____
Time _____
Clerk _____
Comm. Amdt. _____

AMEND Senate Bill No. 1116*

House Bill No. 2035

by adding the following language to subsection (b) of Section 2:

(4) The "terms and conditions of professional service" or "working conditions" of professional employees are those fundamental matters that affect a professional employee financially or the employee's employment relationship with the municipality. While a municipality is not required to agree or concede to any proposal, good faith negotiations of terms and conditions of employment or working conditions of employees shall be undertaken; provided, that no proposal may directly prevent the chief or director of the fire department from transferring professional employees.

(5) Notwithstanding other provisions of this title to the contrary, a chief or director of a fire department shall have the ultimate right to transfer all professional employees. Nothing in this section shall be construed to make transfers or assignments mandatory subjects of negotiations.

(6) Notwithstanding any other provision to the contrary, nothing in subdivisions (b)(4)-(6) shall be construed to prevent a municipality or professional employee organization from engaging the services of qualified individuals for purposes of advice and consultation during the negotiations process. No such individual may directly serve as a negotiator as defined in Section 3.

AND FURTHER AMEND by adding the following language following the word "part" at the end of subdivision (1) of Section 3:

. Arbitration under this part is not governed by the provisions of title 29, chapter 5;

AND FURTHER AMEND by deleting subdivision (3) of Section 3 in its entirety and by substituting instead the following language as a new subdivision (3):

(3) "Management personnel" means the chief or director of a fire department requested by a municipality to represent it in the negotiating process;

AND FURTHER AMEND by deleting subdivision (5) of Section 3 and by substituting instead the following:

(5) "Memorandum of agreement" means a written memorandum of understanding arrived at by the representatives of the municipality and a recognized professional employees' organization on or after the effective date of this act, which is subsequently presented to the municipality and to the membership of such organization for ratification or rejection. The provisions of this act do not apply to any such memorandum of understanding arrived at prior to the effective date of this act;

AND FURTHER AMEND by deleting subdivision (10) of Section 3 and by substituting instead the following:

(10) "Paid fire department" means when ten (10) or more full-time professional employees are paid to work in a municipal fire department;

AND FURTHER AMEND by deleting subdivision (12) of Section 3 and by substituting instead the following:

(12) "Professional employee" means any person employed as a firefighter by a fire department of a municipality or any person designated as fire service personnel by a fire department of a municipality;

AND FURTHER AMEND by deleting the language "form or" in the first sentence of Section 4 and by substituting instead the language "form, join or".

AND FURTHER AMEND by deleting subsection (a) of Section 9 in its entirety and by substituting instead the following language as a new subsection (a):

(a) Upon request, management personnel as defined in Section 3 shall represent the municipality in all negotiation activities.

AND FURTHER AMEND by deleting the following language in subdivision (a)(4) of Section 10:

provided, that a representative has been selected or designated pursuant to the provisions of this part

and by substituting instead the following language:

provided, that if a representative has been selected or designated pursuant to the provisions of this part, a municipality may deny such access and/or usage to any professional employees' organization other than the representative until such time as a lawful challenge to the majority status of the representative is sustained pursuant to this part;

AND FURTHER AMEND by adding the following language as a new subdivision (7) of subsection (b) in Section 10:

(7) Enter onto fire department property for the purpose of contacting professional employees in such a manner and at such times as will interfere with the normal operations of the fire department, except that agreement may be reached in any memorandum of agreement for grievance investigations and process by the recognized professional employees' organization.

AND FURTHER AMEND by deleting the language "and" in subdivision (a)(6) in Section 12 and further amend Section 12 by deleting subdivision (a)(7) in its entirety and by substituting instead the following language:

(7) Payroll deductions; provided that payroll deductions established pursuant to §7-51-204 for payment of dues shall not be considered a condition of employment for purposes of this subsection; and

(8) Other conditions of employment.

AND FURTHER AMEND by adding the following language as a new subsection (c) to Section 12:

(c) Nothing shall prohibit the parties from agreeing to discuss other terms and conditions of employment in service, but it is not bad faith, as set forth in this part, to refuse to negotiate on any other terms and conditions. Either party may file a complaint in a court of record of any demands to meet on other terms and conditions and have an order of the court requiring the other party to continue to meet in good faith on the required items of this section only. Any negotiations under the provisions of this part shall be meetings within the provisions of title 8, chapter 44.

AND FURTHER AMEND by adding the following language at the end of subsection (b) in

SECTION 14:

Any items negotiated by a municipality and the recognized professional employees' organization which require funding shall not be considered binding until such time as the body empowered to appropriate the funds has approved such appropriation. In the event the amount of funds appropriated is less than the amount negotiated, the municipality or its representatives and the recognized professional employees' organization or its representatives shall renegotiate an agreement within the amount of funds appropriated.

AND FURTHER AMEND by deleting the following language from the end of subsection (c) of Section 15:

The cost for the services of the arbitrator shall be borne equally by the parties.

and by substituting instead the following:

The costs for the services of the arbitrator shall be borne by the party requesting the arbitrator.

AND FURTHER AMEND by deleting Section 17 in its entirety and by substituting instead the following:

SECTION 17. Any provision of this act, in conflict with title 50, chapter 1, part 2 or any other right to work laws of this state, shall be deemed to be null and void.